

1 ROBERT S. ARNS (#65071, rsa@arnslaw.com)
2 JONATHAN E. DAVIS (#191346, jed@arnslaw.com)
3 STEVEN R. WEINMANN (#190956, srw@arnslaw.com)

THE ARNS LAW FIRM

515 Folsom Street, 3rd Floor

San Francisco, CA 94105

Tel: (415) 495-7800

Fax: (415) 495-7888

6 JONATHAN M. JAFFE (# 267012, jmj@jaffe-law.com)

JONATHAN JAFFE LAW

3055 Hillegass Avenue

Berkeley, CA 94705

Tel: (510) 725-4293

Fax: (510) 868-3393

Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 ANGEL FRALEY; PAUL WANG; SUSAN
15 MAINZER; JAMES H. DUVAL, a minor,
16 by and through JAMES DUVAL, as
17 Guardian ad Litem; and W.T., a minor, by
18 and through RUSSELL TAIT, as Guardian
19 ad Litem; individually and on behalf of all
20 others similarly situated,

Plaintiffs,

v.

21 FACEBOOK, INC., a corporation; and
22 DOES 1-100,

Defendants.

Case No. CV 11-01726 LHK

**DECLARATION OF
JONATHAN M. JAFFE IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Courtroom: 8

Judge: Hon. Lucy H. Koh

Date: July 12, 2012

Time: 1:30 p.m.

Trial Date: December 3, 2012

1 I, Jonathan M. Jaffe, hereby state and declare:

- 2 1. I am an attorney licensed to practice before all the courts of the State of California as
3 well as the Northern District of California, and am one of the attorneys for Plaintiffs
4 herein. I have personal knowledge of the facts stated in this declaration, and if called
5 upon to testify, could and would competently testify thereto. I make this Declaration
6 in support of Plaintiffs' Motion for Preliminary Approval of Class Action
7 Settlement.
8
- 9 2. Attached hereto as Exhibit 1 is a copy of my curriculum vitae.
- 10 3. Prior to becoming an attorney, I worked with Information Technology departments at
11 over 40 companies during the past 17 years, the prior 13 of which have been
12 generally as a security consultant, designing and building security systems.
13
- 14 4. I have extensive experience in the field of integrated Internet application and systems
15 design. I design and implement Internet-based data and security systems for
16 corporations globally. I have done this mainly as an independent consultant since
17 1999, and have worked in Information Technology full-time since 1993.
18
- 19 5. The systems I design and implement range from corporate messaging systems, web
20 applications, security databases, directories, access control systems, identity
21 management systems, email systems, and others.
- 22 6. I have consulted on several class action cases as to computer systems as well as
23 electronic discovery, including a suit in Los Angeles Superior Court against an
24 Internet-based legal services company, LegalZoom.com, and a Northern District of
25

1 California case against Wells Fargo Bank. Both of those cases have or are in the
2 process of being concluded by way of settlement.

3 7. I have been actively and personally involved in the litigation of this matter since its
4 inception, to the point of consumption. This includes (1) identifying, researching and
5 developing the legal theories of this matter, (2) frequently meeting and working with
6 the class representatives to respond to a heavy load of discovery, and keeping them
7 informed of the status of the case, (3) intimately participating in the research and
8 drafting of all pleadings, discovery and briefs, (4) managing the entire process of
9 electronic discovery, (6) reviewing all discovery produced by Facebook, which to
10 date has been over 169,000 pages of documents (5) developing all aspects of
11 Plaintiffs' legal strategy, (6) participating in nearly ever settlement discussion and
12 negotiation, (7) preparing a large proportion of Plaintiffs' mediation brief of over
13 230 pages, (8) regularly communicating with opposing lawyers on all aspects of this
14 case, throughout the entire case, (9) conducting and participating in near-daily
15 meetings the plaintiff team to develop for the entire length of this case, currently at
16 one year and five months, (10) preparing and defending all depositions of Plaintiffs,
17 including former Plaintiff Angel Fraley, (11) locating and preparing expert
18 witnesses, (12) preparing for and deposing all Facebook witnesses including expert
19 witnesses, (13) appearing as co-counsel at each appearance before this Court, with
20 the exception of one discovery hearing, (14) managing my co-counsel and their staff,
21 and (11) in general obsessing about every detail of this case. I have spent an
22 excessive amount of time on this case at the expense of other consulting
23
24
25
26
27
28

opportunities that would have paid for each hour worked, had I taken them instead of worked on this case.

8. I have personally worked with all the current and former plaintiffs in this case during every aspect of their involvement.

9. Mr. Duval and his family have devoted at least 55 hours staying informed, preparing for and being deposed, and responding to Facebook's discovery requests, including at least 114 requests for admissions, 25 interrogatories and 54 requests for production. Mr. Duval's parents were deposed on a separate occasion from him.

10. Ms. Mainzer has devoted at least 25 hours staying informed, preparing for and being deposed, and responding to Facebook's discovery requests, including at least 115 requests for admissions, 25 interrogatories and 54 requests for production.

11. W.T. and his father have devoted at least 77 hours staying informed, preparing for and being deposed, and responding to Facebook's discovery requests, including at least 114 requests for admissions, 25 interrogatories and 54 requests for production. This time includes the time spent away from their normal schedule while traveling from Redondo Beach, CA to be deposed. Both W.T. and his father were deposed on different occasions.

12. In 2011, Facebook moved the Court for attorney fees in a case also based on Ca. Civ. Code § 3344, *David Cohen v. Facebook*, Los Angeles County Superior Court No. BC 444482 (consolidated with BC 454799) where Facebook won on its demurrer under the Children's Online Privacy Protection Act, or COPPA, 15 U.S.C. §6502 on September 22, 2011. Facebook then moved the Court for over \$790,000 in fees and

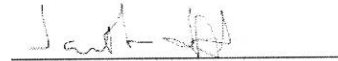
1 costs. In another case, *Cohen v. Facebook*, No. 10-cv-05282 (Judge Richard
2 Seeborg), Facebook has appealed to the United States Court of Appeals for the Ninth
3 Circuit the lower court's denial of more than \$700,000 for attorney's fees.

4
5 13. Facebook propounded the following request for admission to all three Plaintiffs:

6 Admit that YOU are aware that, if FACEBOOK is deemed the prevailing party in
7 this lawsuit, the Court may find that YOU are legally obligated to satisfy, in whole or
8 in part, a judgment awarding reasonable attorneys' fees and costs to FACEBOOK.

9 14. In the face of the threat by Facebook that Plaintiffs may be legally obligated to pay
10 attorneys fees, they still chose to move ahead with the case.

11 I declare under the penalty of perjury under the laws of the United States of America
12 that the foregoing is true and correct, and that if called upon to testify, I could verify the
13 accuracy of the same. This document was executed on June 14, 2012 in San Francisco,
14 California.
15

16
17 

18 Jonathan M. Jaffe
19
20
21
22
23
24
25
26
27